

HOUSE BILL No. 1048

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-5; IC 31-37.

Synopsis: Certified ignition interlock devices. Provides that if a court grants probationary driving privileges to a person who has been convicted twice in a ten year period of operating a vehicle or a motorboat while intoxicated, the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device. Makes conforming amendments.

Effective: July 1, 2001.

Duncan

January 8, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1048

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) In addition to a
3 criminal penalty imposed for an offense under this chapter or
4 IC 14-15-8, the court shall, after reviewing the person's bureau driving
5 record and other relevant evidence, recommend the suspension of the
6 person's driving privileges for the fixed period of time specified under
7 this section.

8 (b) If the court finds that the person:

9 (1) does not have a previous conviction of operating a vehicle or
10 a motorboat while intoxicated; or

11 (2) has a previous conviction of operating a vehicle or a
12 motorboat while intoxicated that occurred at least ten (10) years
13 before the conviction under consideration by the court;

14 the court shall recommend the suspension of the person's driving
15 privileges for at least ninety (90) days but not more than two (2) years.

16 (c) **If:**

17 (1) **a court recommends suspension of a person's driving**



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privileges under subsection (b) for an offense committed under this chapter; and

(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;

the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court ~~may~~ **shall** order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

~~(d)~~ (e) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court ~~may~~ **shall** order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

~~(e)~~ (f) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving

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privileges for at least two (2) years but not more than five (5) years.

~~(f)~~ **(g)** If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 2. IC 9-30-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) If a court grants a person probationary driving privileges under ~~section 12~~ of this chapter, the person may operate a vehicle only as follows:

- (1) To and from the person's place of employment.
- (2) For specific purposes in exceptional circumstances.
- (3) To and from a court-ordered treatment program.

(b) If the court grants the person probationary driving privileges under ~~section 12(a)~~ **section 10(c)** of this chapter, that part of the court's order granting probationary driving privileges does not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) The court shall notify a person who is granted probationary driving privileges of the following:

- (1) That the probationary driving period commences when the bureau issues the probationary license.
- (2) That the bureau may not issue a probationary license until the bureau receives a reinstatement fee from the person and the person otherwise qualifies for a license.

SECTION 3. IC 9-30-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. ~~(a) If:~~

~~(1) a court recommends suspension of a person's driving privileges under section 10(b) of this chapter for an offense committed under this chapter; and~~

~~(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;~~

~~the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.~~

~~(b) An order~~ **(a) All orders** for probationary privileges must be issued in accordance with sections 11 and 13 of this chapter.

~~(c)~~ **(b)** If:

(1) a court recommends suspension of a person's driving privileges under section ~~10(c)~~, 10(d), ~~or~~ 10(e), **or 10(f)** of this chapter for an offense committed under this chapter; and

(2) the period of suspension recommended by the court exceeds



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the minimum permissible fixed period of suspension specified under section 10 of this chapter; the court may stay the execution of that part of the suspension that exceeds the minimum fixed period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

~~(d)~~ (c) In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under ~~section 10(f)~~ **section 10(g)** of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

~~(e)~~ (d) Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.

SECTION 4. IC 9-30-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) An order for probationary driving privileges granted under ~~section 12~~ of this chapter must include the following:

- (1) A requirement that the person may not violate a traffic law.
- (2) A restriction of a person's driving privileges providing for automatic execution of the suspension of driving privileges if an order is issued under subsection (b).
- (3) A written finding by the court that the court has reviewed the person's driving record and other relevant evidence and found that the person qualifies for a probationary license under ~~section 12~~ of this chapter.
- (4) Other reasonable terms of probation.

(b) If the court finds that the person has violated the terms of the order granting probationary driving privileges, the court shall order execution of that part of the sentence concerning the suspension of the person's driving privileges.

SECTION 5. IC 31-37-5-7, AS ADDED BY P.L.32-2000, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to



reinstatement the child's driving privileges as provided in IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstatement the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in ~~IC 9-30-5-12~~. **IC 9-30-5-10(c)**. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

SECTION 6. IC 31-37-19-17.3, AS ADDED BY P.L.32-2000, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17.3. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense under IC 9-30-5.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, recommend the suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(c) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.



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(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstatement the privileges without cost to the person.

(e) If:

(1) a juvenile court recommends suspension of a child's driving privileges under this section; and

(2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in ~~IC 9-30-5-12~~. **IC 9-30-5-10(c)**. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed under IC 31-37-5-7. However, if the juvenile court finds in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

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